IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

Crl.MC.No. 1814 of 2004(B)

CC.388/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT, PAYYANNUR

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PETITIONER: ACCUSED

T.NARAYANAN, AGED 54 YEARS,
S/O. KRISHNAN, HEADMASTER, KOROM DEVI SAHAYAM U.P.SCHOOL.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS: COMPLAINANT/STATE
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1. M.P.KRISHNAN, AGED 55 YEARS,
S/O. DARMAN PANIKKAR, SARIGA KOKKANISSERI,
NEAR GOVT.HOSPITAL, PAYYANNUR, KANNUR DISTRICT.

2. STATE OF KERALA, REP.BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA.

BY ADV. SRI. PUZHAKKARA MUHAMMED, PUBLIC PROSECUTOR
SRI.P.VIJAYA BHANU
SRI.PRASUN.S

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 13/12/2006,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

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CRL. M.C. NO. 1814 OF 2004

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Dated this the 13th day of December 2006

O R D E R

The petitioner is the accused in the private complaint filed by the 1st respondent. Both of them were former Headmasters of Korom Devi Sahayam U.P. School. It is sought to set aside the proceedings pointing out that the same is prompted by ulterior motives and is malicious in nature.

2. The case of the complainant is that (annexure A) during the period of 1997-98 when the accused was the Headmaster there were bogus admissions in the school for the purpose of wrongful gain and thereby misappropriated funds from the noon meal scheme. The complainant did not produce any document to sustain the complaint. All the same, the report of the DPI in the matter has been extensively quoted wherein the DPI has found that there were bogus admissions and consequent irregular staff fixation by the A.E.O. Hence 50 per cent of the liability for salary payment with respect to the abolished posts for 1997-98 was

ordered to be recovered by the AEO and the remaining 50 per cent from the Headmaster i.e., the petitioner and all other teachers involved. It is the case of the petitioner that the above report of the DPI has been set aside vide Annexure D Government order wherein the very basis of the finding of the DPI was found to be not correct. It is mentioned in Government Order that for avoiding the division fall, the alleged bogus admissions were not at all required as the above teachers were eligible for retention as protected hands as per Government Orders. Hence entire order of the DPI was set aside by the Government. The original staff fixation has been restored as per Annexure E order of the AEO.

3. In order to expose the mind set of the complainant the petitioner has produced Annexure F complaint said to have been filed by a fictitious person raising the same allegations as that contained the complaint of the first respondent/complainant. He has also produced Annexure G, the report of the Tahsildar wherein it is mentioned that there is no such person with the name of the complainant in Annexure F. He has also produced Annexure I, copy of the writ petition filed by the person with the

similar name as in Annexure F complaint and the order of this court dismissing the above writ petition wherein this court has observed that the initial and house name of the writ petitioner appeared different from Ext.P2 produced therein (which is the copy of Annexure F complaint.) It is also pointed out that the enemity of the first respondent was occasioned due of the fact that the petitioner happened to be PW3 in Annexure B criminal case against the 1st respondent on the allegation that he misappropriated amounts from the sanjaika funds of the students. As per annexure B order the 1st respondent was convicted but it has been admitted that in the appeal filed in the above order the first respodent was acquitted. But the defacto complainant herein has filed appeal over the order of acquittal, it is submitted. The petitioner has also produced Annexure K which is the petition with the same allegations as contained in the the complaint herein filed by another teacher of the same school. It is the contention of the petitioner herein that the first respondent was the person behind these complaints. The petitioner has also produced Annexure H said to be the report of the AEO as per the directions of the government on Ext.K complaint and the report

of the AEO that the allegations were found false on examining the records and conducting enquiry. It is further submitted that both of them retired from service and that the matter with respect to the incident has allegedly taken place during the period 1997-98.

4. On the other hand the counsel for the first respondent has pointed out that Annexure C report of the DPI contained details of the bogus admissions and the subsequent government order although exonerated the complainant the order did not contain any statement that the admissions were not bogus.

5. I find that at this point of time it would be impossible to sustain the case set up by the complainant/first respondent with respect to the bogus admissions etc. The allegation as to the misappropriation by collecting extra rice from noon meal scheme appears to be frivolous. The amount misappropriated as such is not specified. The approximate amount is also not mentioned. Even as per the report of the DPI the number of bogus students is only 8 and all of them may not be opting for the noon meals as well. Further the complainant has suppressed the fact of the Annexure D government order as per which the Annexure C order of the DPI was set aside. In view of the report of the Assistant

Educational Officer, as per enquiry conducted on orders of Government vide Annexure H, and the report of the AEO that the allegation was found to be incorrect I find that it would be unjust to make the petitioner to undergo the ordeal of appearance before the Criminal Court and consequent trial.

In the result the proceedings pending as CC 388/2004 in the court of Judicial First Class Magistrate, Payyannur is herewith quashed.

K.R. UDAYABHANU, JUDGE.

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